

DECISION ON RESOURCE CONSENT
Ashburton District Council
LUC22/0115

Statute:	Resource Management Act 1991
District Plan:	Ashburton District Plan
Proposal:	Relocation of Anglo-Boer War cenotaph from Baring Square East to Baring Square West, Ashburton
Applicant:	Ashburton District Council
Application Site:	Baring Square East and Baring Square West, Ashburton
Notification:	Publicly notified on 13 October 2022 with submissions closing 24 November 2021. One submission received.
Hearing:	Not required
Commissioner:	Patricia Harte
Date:	8 December 2022
Decision:	Consent is granted

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DECISION

A THE APPLICATION

1. This application by the Ashburton District Council seeks consent to relocate the Anglo-Boer (South African) War cenotaph from Baring Square East to Baring Square West, Ashburton. The resource consent application was prepared by Stewart Fletcher of Fletcher Consulting and Planning and is accompanied by a Heritage Impact Assessment prepared by Arlene Baird of Era and "Illustrations of the Proposed New Location".
2. The cenotaph is in the form of an obelisk with a four-sided square base contain three steps. It then tapers into a pyramid shape at the apex. The structure is made up of individual tiers of material - the base tiers form a concrete and plaster plinth which sit under a local bluestone tier, and this in turn is topped with four tiers of polished red granite. The front face of the lower section of granite (facing Baring Square East road) contains a list of six local men who lost their lives in the South African War 1900-1902 and a Latin statement. This cenotaph currently sits near the Baring Square East frontage midway between Cameron and Havelock Streets. It is proposed to relocate the cenotaph to Baring Square West near Cameron Street midway between State Highway 1 and Baring Square West road, which fronts the current Ashburton District Council offices.
3. The cenotaph is proposed to be moved from Baring Square East to enable a more user friendly public space (civic plaza) to be created adjoining the new Civic buildings currently being constructed opposite (to the east) of the Square. While initially it was not considered necessary to remove the cenotaph, it was later determined that its location could potentially compromise this general area where public events and general gatherings are proposed. It was also considered that there is a risk that the cenotaph could be damaged as a result of increased public use of the area.
4. The proposed new Baring Square West location for the cenotaph was chosen by the Council after consultation with relevant organisations (Ashburton Returned and Services Association, New Zealand Remembrance Army and Heritage New Zealand) and the public. It is understood all these parties were supportive of the new site due to its strong connections with remembrance with the existing World War 1/11 cenotaph being located in the middle of the Square and it having been the focus of remembrance services over time.

B STATUS OF THE APPLICATION

5. The officer report of Lauren Wright details that the Cenotaph is listed in the Ashburton District Plan Heritage Items in Group B, item 107. The property listed for the Cenotaph is Baring Square East. The Explanation and Reasons in the Heritage Section of the District Plan explain that Group B items are stated heritage items or places of "*historical or cultural heritage significance or value to the District*" as compared to Group A items which have region or national significance. It is also stated that *the ongoing conservation and protection of these items is highly desirable*, and that the loss of these items would be *a significant matter, at least in respect of a District and regional community of interest*. Rule 12.7.4 in the Heritage Section of the Ashburton District Plan specifies that the relocation of Group B items *to another location within the property or to another property* is a Discretionary activity.

6. The application sites, Baring Square East (current location) and Baring Square West (proposed location) are both zoned Open Space A. The primary purpose of this zone is to provide for areas such as neighbourhood reserve and the Ashburton Domain which “provide relief from the built environment and a space for people to undertake passive activities such as walking within close proximity of their place of residence”. The permitted activities/buildings within this Zone are very limited, namely playgrounds and recreational activities (rule 6.8.3.(a)) and the only restricted discretionary activity is the sale of food and beverages (6.8.4.(a)). Activities which are not listed as permitted or restricted discretionary activities are non-complying activities (Rule 6.8.5). I agree with the comment in the application that while the cenotaph is a building it is less clear whether it is a recreational activity. As these types of memorials are most commonly located in reserve-type areas which are used for passive and active recreation it is arguable that a cenotaph is part of passive recreational activity of the general public. However, I accept that the more conservative interpretation of the definition of recreational activity in the application and the officer report is appropriate and that as the placing of the cenotaph in Baring Square West is not provided in the Open Space A zone rules and is therefore a non-complying activity.
7. While not directly relevant to the status of the proposed relocation of the cenotaph, it is noted that it is likely that the cenotaph in the proposed location would meet the Zone standards for the Open Space A zone relating to building height, road and internal boundary setbacks, impermeable surface area, lighting and hours of operation.

C PROCESSING OF APPLICATION/NOTIFICATION

8. The application was publicly notified, and a single submission received from Historic Places Mid Canterbury. The points made in the submission are:
- They would prefer that the cenotaph remain on the current site but accept that it has been relocated previously (circa 1978) as part of a redesign of the Square
 - That relocating it to Baring Square West (adjacent to the WW1/WW2 Cenotaph where remembrance services are held) will maintain a similar setting as a public ceremonial war memorial.
 - They do not therefore object to the relocation
 - They agree with the conclusions reached in the Heritage Impact Assessment
 - They consider it is crucial that the relation of the cenotaph does not compromise the mana of the existing cenotaph and its setting
 - That reinstatement of the cenotaph should take place without delay immediately following its deconstruction and recommend that it be completed within 3 months of deconstruction.
 - The new setting and relationship with surroundings should be the same or better quality than its current setting so as not to diminish the cultural and heritage values of the structure.
9. The submitter did not state in their submission whether they wanted to be heard but have advised Council that they do not wish to be heard.

D STATUTORY ASSESSMENT

10. Section 104 sets out matters to be had regard to in deciding on a consent application as:

- a. The actual or potential effects on the environment
- b. Relevant objectives, policies and rules or other provisions of a plan or proposed plan
- c. Any other matter the consent authority considers relevant and reasonably necessary to determine the application.

In addition, as the application to relocate the cenotaph onto Baring Square West is a non-complying activity, there is the additional requirement in section 104D of the Act which specifies that a consent authority can only grant a resource consent for a non-complying activity if it is satisfied that either:

- (a) the adverse effects of the activity on the environment will be minor; or
- (b) the activity will not be contrary to the objectives and policies of the relevant plan.

Effects on the environment

11. I firstly note that the definition of “environment” in the RMA is

environment includes—

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) amenity values; and
- (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters

On this basis it is clear that the effects of the relocation of the cenotaph addressed in the application, in the heritage impact assessment and in the planning report are all relevant effects on the environment.

12. The Heritage Impact Assessment (HIA) accompanying the application provides a very useful and informative background and understanding of historical circumstances of New Zealand’s involvement in the South African War and the resulting recognition of the lives of local soldiers being lost. The assessment also provides physical details of the Cenotaph and includes detailed comments from Brent Robertson a stone mason, regarding the structure, its condition, and the recommended methodology of removal, relocation and re-establishment of the cenotaph.

13. To assist in assessing the impact of the removal of the cenotaph from its current site, for which resource consent is required, the HIA firstly describes its historical, social, cultural, architectural and contextual values. The HIA concludes that the main values are historic, social and cultural. These include sacrifice and contribution to the war effort with the cenotaph providing a focal point for remembrance. The HIA notes that the District Plan does not specify a specific protected setting for the cenotaph that is sometimes specified for heritage items, other than Baring Square East as a whole. The HIA comments that the cenotaph is currently in a commemorative landscape with other memorials in Baring Square East and its removal will change the appearance of the Square. Importantly however it states that:

..it will be moving to a commemorative landscape adjacent to the main WW1/WW2 Cenotaph in Baring Square West. I consider the new setting will therefore be different but no less appropriate.

14. I agree with the HIA that the setting will be no less appropriate and that the commemorative values relate to the structure itself rather than where it is located. As agreed in the Officer report the cenotaph will be able to *“Play an equal commemorative role in the relocated site, as it does on the existing site”*. In addition the location close to the WW1/2 memorial adds to the functioning of the Baring Square West’s role in providing commemorative space for the community.
15. While these memorials and historic features (such as the Grigg statue) are not specifically provided for in the Open Space A zone, it is apparent they play an important community role of providing the opportunity for remembrance in a quiet and pleasant environment associated with reserves and parks. The HIA considers in this regard *“that the accessibility and surrounding commemorative land space of the proposed relocation site to be equal to that of the existing cenotaph”*. The Officer report also comments that the chosen siting sets the cenotaph 5m from the Cameron Street boundary and will therefore have minimal impact on the proportion of impervious surface on the site as it is within an existing pathway.
16. With regard to the impact of the removal of the cenotaph from Baring Square East, the officer report comments that the loss of the cenotaph should be “softened by repurposing of the site rather than leaving a void”. I am not familiar with the design of the outdoor area as part of the Civic Centre redevelopment; however I assume in that it will be of a high standard in keeping with the recent town centre works.
17. The application and reports detail the process of physically relocating the cenotaph based on the recommendations of stone mason Brent Robertson. I agree that it is definitely preferable that the relocation is carried out as a single event thereby avoiding additional issues and delays associated with storing the cenotaph (as has occurred following the Christchurch earthquakes). I also agree that the methodology specified in the application for physically relocating the cenotaph should be incorporated into the resource consent through reference in a works plan, that is to be provided to the Council prior to commencing the removal and re-establishment of the cenotaph.
18. On the above basis I conclude that the expected effects on the environment will be minimal in the short term, and positive in the longer term once the cenotaph is established in its new position in Baring Square West.

Objectives and Policies

- 19.. The relevant Heritage objectives and policies have been assessed in the officer report, namely Heritage Objective 12.1, Policy 12.1C and Policy 12.1F. I agree with and adopt this assessment. I also comment on Objective 12 .1 as follows:

Objective 12.1: Historic Heritage

To protect significant historic heritage in the District, including historic buildings, places and areas, waahi tapu sites and areas and archaeological sites, from adverse effects of subdivision, land-use and development.

Physical protection of the cenotaph is proposed by way of a strict procedure for each stage of the removal and re-establishment. It is accepted that it is necessary to remove and re-create the base concrete and plaster plinth and that a new basalt tier is required for the relocated cenotaph. I consider this is unlikely to compromise the physical and commemorative integrity of the cenotaph. With regard to long-term protection the cenotaph, it is assumed that it will no longer be protected

directly through the current District Plan. However, any alteration, relocation or demolition would presumably be inconsistent with this consent and so would require at least a variation to this consent. In addition, it is expected that there would be a significant public response to such a proposal. Overall I consider the relocation of the cenotaph to Baring Square West achieves this objective.

20. With regard to Open Space, key provisions are Objective 6.1 which seeks a conveniently distributed and accessible range of public open spaces and recreational areas that meet the needs of residents and Policy 6.1A wants to facilitate a wide range of open space types and recreation opportunities that are convenient and accessible. As mentioned previously commemorative structures are not provided for with the Open Space zones, however they are commonly located within reserves, including those in Ashburton. This variety of use and the special feel of these locations is something that the public appreciate. The relocation of the Anglo-Boer war cenotaph to Baring Square West will add to its existing atmosphere of commemoration, which may be difficult to retain if it was to remain in Baring Square East, given the redevelopment of the Square and general area which will result in it being a busier place. The removal also frees up Baring Square East to provide more recreational opportunities for the public than would be the case if it remained. Accordingly I consider that the proposed relocation is consistent with these key provisions seeking a range of open space areas which serve different purposes.

Overall Section 104D assessment

21. On the basis of the above assessment I conclude that the proposal satisfies the “gateway test” contained in section 104D of the RMA, that is the adverse effects of the proposal will be minor in the short term and positive in the long term and it is not contrary to the objectives and policies of the Ashburton District Plan.

Part 2 of the RMA

22. Part 2 requires that specific matters of national importance shall be recognised and provided for including the protection of historic heritage from inappropriate subdivision and use. This requirement is also contained in the District Plan heritage objectives and policies and as assessed above the cenotaph’s relocation is not expected to result in any adverse impact on its heritage and cultural values.

E CONDITIONS

23. The Heritage Impact Assessment and the Officer Report propose conditions to be applied to granting of this consent. These conditions address;
- Supervision of relocation by a suitably qualified heritage expert
 - A works plan being prepared and submitted to Council before works start addressing matters such as pre-start meetings, inspections, methodology for deconstruction, transporting and reconstruction, and accidental discovery protocol
 - Deconstruction, transporting and reconstruction being undertaken as a single stage with no storage of the item
 - Ensuring funds area available prior to starting the project
24. I generally agree that these conditions are appropriate however there is potential uncertainty about the orientation of the cenotaph in Baring Square West. The application contains *Appendix Two – Illustrations of Proposed New Location*. In addition to these illustrations showing the position of the cenotaph within the Square the illustration shows the inscription of the main granite tier detailing the names of the fallen facing Cameron Street. As the orientation of the cenotaph is not addressed in the application documents I asked for comments on this matter from Arlene Baird. She has advised that as the WW1/WW2 Cenotaph faces east out to State Highway that the Anglo-Boer War cenotaph should also face State Highway 1. This would enable a coordinated approach for people attending any

commemoration ceremonies. I accept and agree with this advice and have amended the recommended conditions to provide for this orientation.

F CONCLUSION

In conclusion, I consider the proposed relocation of the Anglo-Boer War Cenotaph from Baring Square East to Baring Square West should be granted consent, subject to conditions, because it will enable the Cenotaph to continue to provide an opportunity for commemoration by the public as well as enabling the redevelopment of Baring Square West without compromising the cenotaph.

Patricia Harte, Independent Commissioner

8 October 2022

DECISION - LUC22/0115

The application of the Ashburton District Council to relocate the Anglo/Boer (South African) Cenotaph from Baring Square East to Baring Square West, Ashburton is GRANTED subject to the following conditions:

Activities

1. The activity shall be carried out in accordance with the application held on Council file LUC22/0115 and the approved stamped LUC22/0115 with the exception of any amendments required by the conditions of consent.
2. The cenotaph shall be oriented with the inscribed face of the granite tier detailing names of the fallen and a Latin quote facing State Highway 1.
3. The relocation of the memorial, including deconstruction and erection in the new location, shall be supervised by a suitably qualified heritage expert.
4. A works plan, consistent with the methodology provided by the stonemason, shall be prepared for certification prior to the commencement of works and shall be submitted to Council for approval. It shall, as a minimum, include
 - Pre-start meeting requirements with contractors
 - Structural inspection prior to deconstruction or lifting
 - Methodology for deconstruction, relocation including transportation, and reconstruction
 - The methodology for removal of the existing concrete and plaster plinth
 - Protocols for on-site compliance and communication
 - General works sequence
 - Accidental Discovery Protocol
5. A photographic recording of the heritage item shall be undertaken before, during and after relocation and shall be provided to Council for their records.
6. The deconstruction, relocation and reconstruction shall be undertaken as one stage without the need for storage of the heritage item.

7. If accidental damage or reduced condition occurs to the memorial as a result of the proposed works, the consent holder shall be responsible for undertaking remediation to a standard at least equivalent to the existing condition. The process for remediation of accidental damage will be agreed with Council.
8. The relocation of the memorial shall only commence once the consent holder has provided documentation to the Council District Planning Manager demonstrating that sufficient funds have been allocated and are available for the relocation of the memorial and establishment on the Baring Street West site.